

U.S. Pat. App. No.: 09/783,146
Atty. Docket No.: 005313.00003

REMARKS

Applicant respectfully asks for reconsideration of both this application and the Office Action dated December 15, 2004. A response to this Office Action was due by March 15, 2005. Accordingly, Applicants are concurrently submitting a Petition for a two month extension of time, together with authorization for the Commissioner to charge the associated small-entity extension fees of \$225 to Deposit Account No. 19-0773. Please consider this Amendment as timely filed.

Applicants gratefully acknowledge the Examiner's indication that claims 8, 21, 28, 30, 44 and 46 contain allowable subject matter, and would be allowed if rewritten into independent form.

Claims 1-46 were pending. Claims 20, 21, 31, 32, 34, 36, 38, 40, 44, and 46 are amended herein to correct minor typographical errors or to otherwise place these claims in still better form. Applicants respectfully submit that the scope of these claims has not been changed by the amendments presented herein. New claims 47-58 are then presented in order to more particularly claim various aspects of the invention.

In the Office Action, the Examiner first rejected claims 1-46 under 35 U.S.C. §101 for statutory double patenting over claims 1-22 of copending U.S. Patent Application No. 09/782,593. Applicants respectfully traverse this rejection, and courteously ask for its reconsideration. Further, Applicants respectfully submit that this rejection is not applicable to any of new claims 47-58.

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First, Applicants respectfully submit out that this rejection is inherently improper. In order to sustain a statutory double patenting rejection, the Examiner must show that the rejected claims are essentially identical to the claims upon which the rejection is predicated (i.e., drawn to *identical* subject matter). With regard to the instant rejection, Applicants point out that forty-six different claims cannot be essentially identical to only twenty-two claims.

Second, Applicants courteously point out that the subject matter of claims is, in fact, patentably distinct from the subject matter of claims 1-22 pending in U.S. Patent Application No. 09/782,593. For example, claim 1 of this application recites that the second computer, which receives and decrypts data records transmitted from the first computer, transmits session information for encrypting and decrypting the data records to a third computer. This feature is not recited by any of claims 1-22 in U.S. Patent Application No. 09/782,593. Similarly, claim 20 of this application recites that the proxy server transmits session information including the previously shared encryption key for use in decrypting the plurality of data records to another server. Claim 38 then recites a third computer coupled to the second computer and having a cache memory for storing at least the encryption key. These features likewise are not recited by any of claims 1-22 in U.S. Patent Application No. 09/782,593. New claim 47 recites transmitting session information for decrypting the encrypted data records to a second computer, which also is not recited by any of claims 1-22 in U.S. Patent Application No. 09/782,593.

Accordingly, Applicants respectfully submit that the subject matter recited in claims 1-58 of the instant application is not identical to the subject matter recited in claims 1-22 of U.S. Patent Application No. 09/782,593, and is, in fact, patentably distinct from the subject matter.

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recited in those claims. It is therefore requested that the outstanding rejection under 35 U.S.C. §102 be withdrawn.

Next, claims 1-4, 10-12, 15, 16, 20, 24, 25, 27, 29, 34, 38, 39, 43, and 45 were rejected under 35 U.S.C. §102(e) over U.S. Patent No. 6,216,229 B1 to Fisher. Applicants respectfully traverse this rejection, and courteously ask for its reconsideration as well. Further, Applicant respectfully submits that this rejection is not applicable to any of claims 47-58.

Each of the claims in this application generally relate to a method or system that (1) transmits encrypted data records between two computers during a communication session, and (2) provides information relating to that communication session to another computer (i.e., a computer outside of that communication session). For example, claims 1-19 recite “encrypting and transmitting data records between [a] first computer and [a] second computer using an unreliable communication protocol...in the second computer, receiving and decrypting the data records...and...in the second computer, transmitting session information for encrypting and decrypting the data records to a third computer.”

Claims 20-37 similarly recite “using [a] nonce to encrypt each of [a] plurality of data records...transmitting the plurality of [encrypted] data records...from the client computer to the proxy server using an unreliable communication protocol...in the proxy server, decrypting each of the plurality of encrypted data records using a corresponding nonce extracted from each data record and a previously shared encryption key...and...in the proxy server, transmitting session information including the previously shared encryption key for use in decrypting the plurality of data records to another server.” Claims 38-46 then recite “a first computer having a

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communication protocol client function operable...to transmit data records securely using an unreliable protocol...a second computer coupled to the first computer and having a communication protocol server function operable...to receive data records securely using the unreliable communication protocol...wherein the communication protocol client function encrypts each data record using a nonce and an encryption key...and a third computer coupled to the second computer and having a cache memory for storing at least the encryption key." Lastly, claims 47-58 recite "receiving data records from [a] first computer that have been encrypted...and...transmitting session information for decrypting the encrypted data records to a second computer."

Applicants respectfully submit that the Fisher patent does not teach or suggest these recited features of the invention. The Fisher patent is directed toward a technique for preventing unauthorized access to confidential information provided to an escrow trustee. Accordingly, while the Fisher patent teaches that a user provides encrypted escrow information to the escrow trustee, nothing in the Fisher patent teaches or suggests that the escrow information is related to the encryption used to encrypt it. Instead, the Fisher patent teaches using conventional public/private key encryption to encrypt the transferred escrow information, thereby obviating the need for the user to provide the escrow trustee with separate encryption information. (See, e.g., column 10, lines 10-18.) More particularly, there is nothing in the Fisher patent that would teach or suggest providing another computer with information relating to the communication session between the user and the escrow trustee, as suggested by the Examiner.

Accordingly, Applicants request that the rejection of claims 1-4, 10-12, 15, 16, 20, 24, 25,

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27, 29, 34, 38, 39, 43, and 45 over the Fisher patent be withdrawn. Applicants further urge that this rejection is not applicable to any of claims 47-58.

Next, claims 5-7, 22 and 23 were rejected under 35 U.S.C. §103 over the Fisher patent in view of U.S. Patent No. 6,371,729 B1 to Camp et al. Claims 9, 13, 14, 17-19, 24, 26, 31, 32, 35-37, 40 and 42 then were rejected under 35 U.S.C. §103 over the Fisher patent in view of prior art allegedly disclosed in Applicants' specification. Applicants respectfully traverse both of these rejections, and ask for their reconsideration. In addition, Applicants urge that neither of these rejections is applicable to any of new claims 47-58.

As discussed in detail above, Applicants again submit that nothing in the Fisher patent teaches or suggests claimed features of the invention. It is respectfully submitted that neither the Camp et al. patent nor any prior art disclosed in Applicants' specification would remedy these omissions of the Fisher patent. Applicants therefore submit that no combination of the Fisher patent, the Camp et al. patent, or any prior art disclosed in Applicants' specification would teach or suggest the invention as recited in any of claims 9, 5-7, 13, 14, 17-19, 22-24, 26, 31, 32, 35-37, 40, 42, and 47-58. Applicants therefore request that the rejections of claims 9, 5-7, 13, 14, 17-19, 22-24, 26, 31, 32, 35-37, 40, 42 be withdrawn. Applicants also urge that these rejections are not applicable to any of new claims 47-58.

Applicants respectfully ask that the Commissioner charge the extra claim fees associated with the submission of new claims 47-58, the fee for the associated Petition for a two month extension of time, and any other fees deemed necessary to maintain the pendency of this application, including any fees under 35 U.S.C. §1.16 and §1.17, to the deposit account of the

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undersigned, Deposit Account No. 19-0733.

In view of the above amendments and remarks, Applicants respectfully submit that all of the claims are allowable, and that this application is therefore in condition for allowance. Applicants courteously ask for favorable action at the Examiner's earliest convenience.

Respectfully submitted,

BANNER & WITCOFF, LTD.

By: Thomas L. Evans

Thomas L. Evans, Reg. No. 35,805
1001 G Street, N.W., 11th Floor
Washington, D.C. 20001-4597
Telephone: (202) 824-3000
Facsimile: (202) 824-3001

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